

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:	§	Attorney Docket No. 31132.42
Eisermann et al.	§	
Serial No. 10/773,814	§	Confirmation No. 8262
Filed: February 6, 2004	§	Group Art Unit: 3738
For: <b>ARTICULAR DISC PROSTHESIS</b>	§	Examiner: Paul B. Prebilic
<b>FOR TRANSFORAMINAL INSERTION</b>	§	

**RESPONSE TO OFFICE ACTION MAILED AUGUST 25, 2006**

Commissioner for Patents  
Mail Stop Amendment  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

No fees, including extension of time fees, are believed necessary for consideration of the present paper. However, if any fees, including extension of time fees, are necessary, the extension of time is hereby requested, and the Commissioner is hereby authorized to charge any fees, including those for the extension of time, to Haynes and Boone, LLP's Deposit Account No. 08-1394.

In response to the Office action of August 25, 2006, please amend the above-identified application as follows:

**Election of Claims** begins on page 2 of this paper.

**Listing of Claims** which begins on page 3 of this paper.

**Remarks** begin on page 7 of this paper.

**I. Election**

In the Office Action mailed August 25, 2006, the Examiner concluded that the application contained claims directed to two inventions and, thus, requires restriction. The Examiner has indicated that claims 1-24 are deemed drawn to a prosthetic device, classified in class 623, subclass 17.16 and that claims 25-28 are deemed drawn to a method of insertion, classified in class 623, subclass 17.11.

Responsive thereto, Applicant has elected claims 25-28 and has canceled claims 1-24, without prejudice.

The Examiner also identified twelve (12) separate species identified as:

- |                            |                            |
|----------------------------|----------------------------|
| A) Figures 4a, 5, 6, and 7 | G) Figure 13               |
| B) Figures 4b and 4c       | H) Figures 14-16 and 24-25 |
| C) Figure 8                | I) Figure 18               |
| D) Figures 9 and 10        | J) Figure 19               |
| E) Figure 11               | K) Figure 20               |
| F) Figure 12               | L) Figures 28-31a          |

Responsive thereto, Applicant elects species L corresponding to Figures 28-31. Claims 25-45 are believed to read on the elected species. Notwithstanding this election, claims 25-33, 35-38, and 40-45 are believed to be generic to each of the identified species.